

LEGISLATIVE BILL 586

Approved by the Governor March 10, 2008

Introduced by Cornett, 45.

FOR AN ACT relating to liens; to amend section 52-401, Reissue Revised Statutes of Nebraska; to change medical lien provisions; to repeal the original section; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 52-401, Reissue Revised Statutes of Nebraska, is amended to read:

52-401 Whenever any person employs a physician, nurse, chiropractor, or hospital to perform professional service or services of any nature, in the treatment of or in connection with an injury, and such injured person claims damages from the party causing the injury, such physician, nurse, chiropractor, or hospital, as the case may be, shall have a lien upon any sum awarded the injured person in judgment or obtained by settlement or compromise on the amount due for the usual and customary charges of such physician, nurse, chiropractor, or hospital applicable at the times services are performed, except that no such lien shall be valid against anyone coming under the Nebraska Workers' Compensation Act. For persons covered under private medical insurance or another private health benefit plan, the amount of the lien shall be reduced by the contracted discount or other limitation which would have been applied had the claim been submitted for reimbursement to the medical insurer or administrator of such other health benefit plan. The measure of damages for medical expenses in personal injury claims shall be the private party rate, not the discounted amount.

In order to prosecute such lien, it shall be necessary for such physician, nurse, chiropractor, or hospital to serve a written notice upon the person or corporation from whom damages are claimed that such physician, nurse, chiropractor, or hospital claims a lien for such services and stating the amount due and the nature of such services, except that whenever an action is pending in court for the recovery of such damages, it shall be sufficient to file the notice of such lien in the pending action.

A physician, nurse, chiropractor, or hospital claiming a lien under this section shall not be liable for attorney's fees and costs incurred by the injured person in securing the judgment, settlement, or compromise, but the lien of the injured person's attorney shall have precedence over the lien created by this section.

Upon a written request and with the injured person's consent, a lienholder shall provide medical records, answers to interrogatories, depositions, or any expert medical testimony related to the recovery of damages within its custody and control at a reasonable charge to the injured person.

Sec. 2. Original section 52-401, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 3. Since an emergency exists, this act takes effect when passed and approved according to law.